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Paul  
5/24/04  
E.I.  
5/17/04

5/17/04 PINKSTON DRAFT

### SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is entered into by Blue Tee Corp., as successor to American Zinc, Lead and Smelting Company and American Zinc Company of Illinois ("Blue Tee") and the United States of America on behalf of the General Services Administration ("Federal Respondent") to settle Blue Tee's claims against Federal Respondent relating to the following matters regarding the Old American Zinc Superfund Site located at Fairmont City, Illinois ("Site"): (a) Blue Tee's necessary response costs ~~past costs~~ for response actions undertaken by Blue Tee regarding the Site pursuant to a Section 106 Administrative Order on Consent dated March 22, 2002 ("Removal AOC"); (b) Blue Tee's necessary Federal Respondent's share of response costs regarding a remedial investigation/feasibility study ("RI/FS") to be performed by Blue Tee at the Site pursuant ~~either~~ to an Administrative Order on Consent to be entered into between Blue Tee, Federal Respondent, and the United States Environmental Protection Agency ("EPA") (hereafter "RI/FS AOC"), ~~as yet undated, or a Unilateral Administrative Order from EPA to Blue Tee and/or the Federal Respondent, Xtra Intermodal, Inc., or any combination thereof (hereafter "RI/FS UAO")~~; and (c) EPA oversight costs for the RI/FS AOC.

### AGREEMENT

Blue Tee and Federal Respondent agree as follows:

1. Definitions. The following definitions shall apply to this Agreement:

- a. "Parties" means Blue Tee and the Federal Respondent.
- b. "United States" means the United States of America and all of its agencies, departments and instrumentalities.
- c. "Past Response Costs Expenses" means those necessary response costs paid Expenses incurred by Blue Tee to comply with ~~attributable to its work done pursuant to~~ the Removal AOC before the execution of this Agreement.

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d. "Interest" means interest on the terms and conditions and at the rate set forth in CERCLA section 107(a)(4), 42 U.S.C. § 9607(a)(4).

e. "Future Response Costs Expenses" means (1) with regard to the Removal AOC, those ~~necessary response costs Expenses~~ incurred by Blue Tee to comply with ~~attributable to its work done pursuant to~~ the Removal AOC ~~incurred~~ after the execution date of this Agreement, and (2) ~~with~~ With regard to the RI/FS AOC ~~or RI/FS UAO~~, it means those necessary response costs Expenses incurred by Blue Tee to comply with ~~attributable to its work under~~ the RI/FS AOC ~~or RI/FS UAO~~ after the Effective Date of the RI/FS AOC ~~or RI/FS UAO~~.

f. "Removal AOC" means the CERCLA Section 106 Administrative Order by Consent entered into between EPA and Blue Tee on March 22, 2002.

g. "RI/FS AOC" means ~~the any~~ administrative order on consent regarding the Remedial Investigation/Feasibility Study for the Site entered into between EPA, Blue Tee, and Federal Respondent.

~~h. "RI/FS UAO" means any unilateral administrative order regarding the Remedial Investigation/Feasibility Study for the Site which may be issued to Blue Tee, or to Blue Tee and the Federal Respondent.~~

h. "CERCLA" means the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9601 et seq.

~~ji. "Federal Payment Coordinator" means the person designated by Federal Respondent to review and make recommendations on claims for reimbursement submitted by Blue Tee.~~

i. "Effective Date" means with regard to the RI/FS AOC, the date EPA executes the RI/FS AOC; ~~and, with regard to the RI/FS UAO, means the date EPA issues the UAO.~~

j. "Response Costs Expenses" means all necessary response costs, ~~natural resource damages~~, and other amounts payable under CERCLA section 107(a), 42 U.S.C. 9607(a), including but

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not limited to all of the following categories of costs to the extent they are within the statutory definition and consistent with the National Contingency Plan expenses:

i. The cost of hiring and retaining specialists to conduct technical studies at the Site to develop accurate information on the quantity and quality of hazardous substances, pollutants or contaminants present, the effect of such hazardous substances, pollutants, or contaminants on surrounding areas, and methods of remedial action and the cost of any EPA oversight related thereto;

ii. The cost of employing engineers, scientists, medical or health professionals, financial analysts or planners, and associated personnel to develop fieldwork, undertake studies or assessments, develop plans or specifications, perform cost estimates and associated financial and investment analysis, provide technical, cost, and financial information to EPA, Federal Respondent, or the community, and give advice or perform work in furtherance of the planning or performance of the Work (including, but not limited to, the cost of insurance for liabilities arising from work performed at the Site and work regarding the appropriate health, environmental and design standards to be used, vendor capabilities, and work plans); ***[NOTE: WE ARE CONCERNED THAT THE PHRASE "THE COST OF INSURANCE FOR LIABILITIES ARISING FROM WORK PERFORMED AT THE SITE" MAY BE TOO BROAD...LET'S DISCUSS.]***

iii. The cost of maintenance of records regarding the Site and regarding joint efforts of Blue Tee and Federal Respondent within the scope of the RI/FS AOC ~~or the RI/FS UAO~~ and this Agreement;

iv. The necessary cost of fund management or trust management, and accounting relating to performance of obligations under the RI/FS AOC ~~or the RI/FS UAO~~ ~~or this Agreement;~~

v. The cost of distribution of correspondence, records and notices;

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vi. The costs paid by Blue Tee or Federal Respondent to discharge EPA's claims for past or future response or associated oversight costs and associated interest (other than EPA's claim for past costs EPA incurred prior to March 22, 2002, for which Blue Tee has no responsibility);

vii. Any attorneys' fees or fees for paralegals ~~or other legal employees~~ incurred in connection with the negotiation or administration of contracts for the performance of obligations under the RI/FS AOC ~~or the RI/FS UAO~~, and the performance under or administration of the RI/FS AOC ~~or the RI/FS UAO~~;

viii. All other costs incurred by Blue Tee or Federal Respondent arising in the course of complying with the RI/FS AOC ~~or the RI/FS UAO~~, including the costs of obtaining access and EPA or state oversight ~~except for the internal review of submittals by Federal Respondent~~; and

~~ix. Any stipulated penalties accruing subsequent to enactment of a statute in which Congress expressly waives sovereign immunity for civil penalties under CERCLA for federal agency actions at non-federally owned facilities; and~~

~~ix~~ x. The costs of administering and funding any community involvement support and technical assistance plan required by the terms of the RI/FS AOC ~~or the RI/FS UAO~~.

"Response Costs Expenses" do not include the following:

i. Attorneys' fees and fees for paralegals ~~incurred by Blue Tee~~, except as provided above;

ii. Costs connected with publicity or public relations activities, except for costs of the community relations plan and activities required by the RI/FS AOC ~~or the RI/FS UAO~~;

iii. Costs connected with comments or preparation of responses on public rulemakings or proposed rules;

iv. The costs of indemnifying EPA pursuant to the RI/FS AOC ~~or pursuant to~~

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the RI/FS UAO; and

v. The cost of any internal review of submittals by Blue Tee internal corporate representatives, and the cost of internal review of submittals by the Federal Respondent;

vi. Stipulated penalties assessed against Blue Tee pursuant to the RI/FS AOC.

mt. "Smelter-Related Response Costs Expenses" means those response costs Expenses which are directly or indirectly related to the study or remediation of ~~contamination that more likely than not is the result of~~ zinc or other metals smelting activities, and activities associated with smelting (such as the production of acid and cadmium production) at the Site.

nm. "Non-Smelter-Related Response Costs Expenses" means all Response Costs Expenses which are not Smelter-Related Expenses. The costs of the community involvement support and technical assistance plan, described in the RI/FS AOC, are ~~shall be considered a~~ Non-Smelter-Related Response Costs Expense.

o. "Community Involvement Support and Technical Assistance Plan Expenses" means all response costs expenses so delineated and described in the RI/FS AOC ~~or the RI/FS UAO~~. Such response costs expenses shall be allocated as described in Paragraph 9 below.

pn. "Work" means the activities to be performed by Blue Tee pursuant to the RI/FS AOC ~~or the RI/FS UAO~~ and the Statement of Work ("SOW") attached thereto, ~~as well as payment of oversight or other costs assessed by EPA or other regulatory entities in connection with the performance of the RI/FS at the Site.~~

2. Payment of Blue Tee's Past Expenses. Federal Respondent will pay to Blue Tee the sum of \$ \_\_\_\_\_ (22.5 percent of \_\_\_\_\_) as soon as reasonably practicable after the execution of this Agreement. If payment is not made within 120 days after the execution of this Agreement, Interest will

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accrue on the unpaid balance beginning from the 121<sup>st</sup> day after the Effective Date until paid. This sum is payment made in full and final settlement of Blue Tee's claim for Past Response Costs Expenses.

3. Allocation of Future Response Costs Expenses relating to performance of the RI/FS AOC and Removal AOC [note that "Removal AOC" has been added here; this is to be sure that GSA's share of any additional Removal AOC Response costs incurred by Blue Tee will be paid pursuant to this paragraph]. Blue Tee and Federal Respondent agree that for purposes of this Agreement only, Federal Respondent will pay 22.5 percent of all Smelter-Related Future Response Costs Expenses incurred by Blue Tee in Blue Tee's performance of the Work, and that Federal Respondent will pay 45 percent of all Non-Smelter-Related Future Response Costs Expenses incurred by Blue Tee in performing the Work. The Parties agree that this allocation is the result of negotiation between them, and that it has no binding or precedential effect whatsoever regarding any allocation ~~for any payment of Expenses or response costs relating to the Site~~ except those explicitly set forth herein. The Parties also agree that unless otherwise explicitly stated, this allocation is only as between Blue Tee and Federal Respondent, and does not necessarily reflect either Party's equitable allocation of all ~~Expenses or Response Costs~~ incurred with regard to performance of the obligations of the RI/FS AOC. The Parties agree that all Response Costs Expenses incurred for the investigation for organic constituents, for example, volatile organic compounds; semi-volatile organic compounds; PCBs; dioxins; pesticides and herbicides are presumed to be Non-Smelter-Related Expenses. (Such expenses shall include, but not be limited to, the taking of samples for organic constituents, analysis of such samples, any follow-up sampling, and any engineering or consulting services to the extent directed at organic constituents). If the Parties are unable to agree whether a particular item should be considered a Smelter-Related Expense or a Non-Smelter-Related Response Costs Expense, they shall utilize the dispute resolution process set forth in Paragraph 5 below.

4. Federal Respondent's Payment of Future Response Costs Expenses Incurred by Blue Tee

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**Regarding the RI/FS AOC and the Removal AOC [note: as with ¶ 3 above, the addition of “and the Removal AOC” is to deal with any additional costs resulting from the tail end of the removal action].**

a. **Initial payment.** For purposes of the first funding phase of this Agreement, the parties agree that the current best estimate of the present value of the ultimate total cost of the Work, including EPA's future RI/FS oversight costs, is \$2,500,000, of which \$2,350,000 is allocated to Smelter-Related **Response Costs Expenses** and \$150,000 is allocated to Non-Smelter-Related **Response Costs Expenses**. Federal Respondent's share of the estimated present value of the total cost is therefore \$596,250 (the sum of 22.5 percent of estimated total Smelter-Related **Response Costs Expenses** and 45 percent of estimated total Non-Smelter-Related **Response Costs Expenses**) (the “Initial Payment”). Federal Respondent will pay its Initial Payment as soon as practicable after the Effective Date of the RI/FS AOC ~~or after the date of issuance of an RI/FS UAO to Blue Tee requiring Blue Tee to perform the Work~~. The payment made by Federal Respondent or on its behalf will be made to a trust or account (the “Fund”) in a manner mutually agreed by Blue Tee and Federal Respondent. If payment is not made within 120 days after execution of the RI/FS AOC ~~or the issuance of the RI/FS UAO~~, Interest will accrue on the unpaid balance beginning from the 121<sup>st</sup> day until paid. Blue Tee may draw on the Fund as invoices become due, subject to the procedures set forth in Paragraph 4(b) below.

b. **Payment of Expenses and Accounting.** Blue Tee will prepare quarterly expense reports in March, June, September, and December of each year and provide same to Federal Respondent ~~'s Federal Payment Coordinator~~. The Statement of **Response Costs Expenses** shall identify all Future **Response Costs Expenses** incurred by Blue Tee within the preceding quarter, and shall include (i) a comprehensive description of the **Response Costs Expenses** for which Blue Tee has drawn or wishes to draw on the Fund, including sufficient documentation to allow verification of the accuracy of the claim

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and consistency of the Response Cost Expense with the Agreement, (ii) a statement as to whether each Response Cost Expense is a Smelter-Related Response Cost Expense or a Non-Smelter-Related Response Cost Expense, and (iii) certification by an official designated to act for Blue Tee that the Response Costs Expenses included in the Statement of Response Costs Expenses are Response Costs Expenses within the meaning of this Agreement and CERCLA, that are necessary Response Costs, that the Response Costs are consistent with the National Contingency Plan, and were incurred or to be incurred by Blue Tee. The Statement of Response Costs Expenses shall include sufficient detail on the claimed charges to allow for auditing of the Statement of Response Costs Expenses consistent with generally accepted accounting principles. Where charges are specified in terms of units or rates, Blue Tee will specify the units or rates at which charges are being billed.

~~i. Within 60 days of actual receipt of the Statement of Response Costs Expenses, Federal Respondent will notify Blue Tee as to whether Federal Respondent challenges any of the Response Costs Expenses set forth in the Statement of Response Costs Expenses as not compensable under the Agreement, or as improperly classified as a Non-Smelter-Related Response Cost Expense, and will specify those Response Costs Expenses included in the Statement of Response Costs Expenses which are not challenged and which are challenged. If Federal Respondent challenges some or all of the Response Costs Expenses set forth in the Statement of Response Costs Expenses, it may initiate the dispute resolution process set forth in Paragraph 5 of this Agreement. However, the dispute resolution process shall not prohibit payment of the Response Cost Expense from the Fund.~~

~~ii. Federal Respondent shall have the right, within 60 days of the actual receipt of the Statement of Response Costs Expenses, to request in writing additional information regarding some or all of the Response Costs Expenses contained in the Statement of Response Costs Expenses. Such request shall toll the time within which Federal Respondent must notify Blue Tee as to whether~~



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Federal Respondent accepts or rejects the particular Response Costs Expenses set forth in the Statement of Response Costs Expenses as to which additional information is requested. Blue Tee agrees to provide a response to such request, in writing, within 30 days of its actual receipt of a written request for additional information from Federal Respondent. Within 30 days of actual receipt of the additional information requested, Federal Respondent will notify Blue Tee as to whether the particular Response Costs Expenses regarding which additional information was requested are accepted or rejected for payment by Federal Respondent. In the event Federal Respondent rejects the claimed Response Cost Expense for payment, it may initiate the dispute resolution process set forth in Paragraph 5 of this Agreement as to the rejected Response Costs Expenses. However, the dispute resolution process shall not prohibit payment of the Response Cost Expense from the Fund.

c. Additional payments of Future Response Costs Expenses by Federal Respondent.

i. When the amount of Future Response Costs Expenses incurred by Blue Tee in performing the Work reaches 75 percent of the estimated present value of the Work set forth in Paragraph 4(a) above, Blue Tee shall notify the Federal Respondent Payment Coordinator of that fact in writing. Such notice shall include (a) a projection of the estimated cost of completing the Work; (b) with a full explanation of the assumptions and methods used by Blue Tee in deriving the projection; and (c) a statement demonstrating why the projected additional Response Costs are "Response Costs" within the meaning of this Agreement and why they are consistent with the National Contingency Plan. The notice shall also include a breakdown of the projected additional Response Costs Expenses into Smelter-Related Response Costs Expenses and Non-Smelter-Related Response Costs Expenses. Federal Respondent may request additional information regarding the projection in writing within 60 days of its actual receipt of the notice. Blue Tee agrees to provide a response to such request, in writing, within 30 days of its actual receipt of a written request for additional information from Federal Respondent. Within 30 days of

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actual receipt of the additional information requested, Federal Respondent will notify Blue Tee which projected Response Costs Expenses it accepts and which it rejects. As to those projected Response Costs Expenses it accepts, Federal Respondent will pay its allocated share of Response Costs Expenses as soon as practicable after Federal Respondent's notification of its acceptance of those Response Costs Expenses. The payment made by Federal Respondent or on its behalf will be made to the Fund referenced above in a manner mutually agreed by Blue Tee and Federal Respondent. If payment of the projected Response Costs Expenses is not made within 120 days of the acceptance of the Response Costs Expenses by Federal Respondent, Interest will accrue on the unpaid balance from the 121<sup>st</sup> day until paid. As to those projected Response Costs Expenses rejected by Federal Respondent, Blue Tee may institute the dispute resolution process set forth in Paragraph 5 below with regard to the rejected Response Costs Expenses. In addition, Federal Respondent may institute the dispute resolution process set forth in Paragraph 5 below if Federal Respondent alleges that any of the funds expended by Blue Tee from the initial payment described in Paragraph 4(a) were not in payment of or reimbursement of Response Costs within the meaning of this Agreement.

ii. If the cost of completing the Work exceeds the projected additional Response Costs expenses referenced in Paragraph 4(c)(i) above, Blue Tee may notify Federal Respondent in writing as of the time that 75 percent of the projected additional Response Costs expenses have been incurred by Blue Tee. Federal Respondent may request additional information, and Blue Tee will respond, in the same manner as set forth in Paragraph 4(c)(i) above. If Federal Respondent rejects payment of any of the projected additional Response Costs Expenses, Blue Tee may institute the dispute resolution process set forth in Paragraph 5 below with regard to the rejected Response Costs Expenses. In no case will Federal Respondent be required to make additional payments more than once twice per year.

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5. **Dispute Resolution.** For disputes arising between the Parties regarding those matters set forth in Paragraph 4 of this Agreement, or with regard to any other dispute regarding the interpretation or performance of this Agreement (~~with the exception of those matters which are explicitly excluded from the dispute resolution process by this Agreement~~) **[NOTE: NOTHING IS EXCLUDED FROM DISPUTE RESOLUTION IN THE AGREEMENT]**, the Parties agree to the following dispute resolution process:

a. The Parties shall first enter into an informal dispute resolution process in which they attempt to resolve the dispute through informal negotiations. The period for informal negotiations shall be thirty days from the date the dispute arises, unless this period is shortened or extended by written consent of the Parties. The dispute shall be considered to have arisen when one Party sends the other Party a written notice of dispute. The informal negotiation period will commence as of the time the Party not initiating the dispute has actual receipt of the written notice of dispute.

b. In the event the Parties are unable to resolve the dispute through thirty-day informal negotiation period, within fifteen days after the conclusion of the informal negotiation period, either Party (the "initiating Party") may institute the formal dispute resolution procedures of this Paragraph by serving on the other Party (the "responding Party") a written statement of position on the matter in dispute, including, but not limited to, any factual data, analysis, or opinion supporting its position and any supporting documentation relied upon by the initiating Party. The responding Party shall serve a responsive statement of position on the matter in dispute upon the initiating Party within twenty days of actual receipt of the initiating Party's statement of position. The initiating Party may serve a reply statement of position on the responding Party within five days of actual receipt of the responding Party's statement of position.

c. If the Parties have been unable to resolve the dispute within fifteen days of the date

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the last statement of position contemplated in the previous subparagraph is actually received by the Party to whom it is directed, Blue Tee may file an action to enforce this Agreement ~~either party may seek judicial review~~, and all Parties reserve all rights and defenses.

d. In any dispute resolution process under this section, ~~including judicial review~~, each Party shall bear its own costs and attorneys' fees.

6. Releases and Covenants Not to Sue. In consideration of the execution and performance of this Agreement by the Federal Respondent, Blue Tee, its directors, officers, employees, agents, assigns and successors hereby releases, discharges, and covenants not to sue the United States based on CERCLA or any other federal law, State law, or common law arising from Blue Tee's performance of the Work, Blue Tee's payment of any past or future oversight costs asserted by EPA or any other regulatory agency in connection with the Work or the Removal AOC. This release and covenant not to sue shall be effective as to Blue Tee's claims for Past Response Costs upon payment of those Past Response Costs by the Federal Respondent. As to the release and covenant not to sue for Future Response Costs granted herein by Blue Tee to the Federal Respondent, this release and covenant not to sue shall be effective upon payment of such Future Response Costs by the Federal Respondent. Notwithstanding any other provision in this Settlement Agreement, Blue Tee reserves the right, after dispute resolution, to sue the Federal Respondent to seek payment of any Future Response Costs alleged due and owing under this Agreement not previously paid by the Federal Respondent. [NOTE: THIS IS THE PROPOSED REPLACEMENT PARAGRAPH; BLUE TEE IS GRANTING A RELEASE TO GSA BECAUSE GSA IS PAYING MONEY. WE HAVE NO INTENTION OF SUING BLUE TEE. IN ANY CASE, AS ESSENTIALLY A CONTRIBUTION DEFENDANT, WE DON'T THINK WE WOULD HAVE A CONTRIBUTION CLAIM AGAINST BLUE TEE.]

~~6. Mutual Releases and Covenants Not to Sue by Blue Tee. In consideration of the execution~~

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~~and performance of this Agreement by the Federal Respondent, Blue Tee, its directors, officers, employees, agents, assigns, and successors, and Federal Respondent hereby releases, discharges, and covenants not to sue each other the United States based on CERCLA or any other federal law, State law, or common law arising from Blue Tee's performance of the Work, Blue Tee's performance of the obligations included within the Removal AOC, and Blue Tee's payment of any past or future oversight costs asserted by EPA or any other regulatory agency in connection with the Work or the Removal AOC, with the exception of an action to enforce the terms of this Agreement. This release and covenant not to sue shall be effective as to Blue Tee's claims for Past Expenses upon payment of those Past Expenses by the Federal Respondent. As to the release and covenant not to sue for Future Expenses granted herein by Blue Tee to the Federal Respondent, this release and covenant not to sue shall be effective upon payment of such Future Expenses by the Federal Respondent. As to the release and covenant not to sue granted herein by the Federal Respondent to Blue Tee, this release and covenant shall be effective upon performance of the Work by Blue Tee. The term "Federal Respondent" in this paragraph specifically excludes (a) the United States Environmental Protection Agency, together with any successor or substitute agency, (b) any department, agency, or instrumentality of the United States, when acting as a natural resources trustee, (c) any department, agency, or instrumentality of the United States which is otherwise charged with enforcing environmental compliance when acting in its enforcement capacity, and (d) the United States Department of Justice acting on behalf of (a)-(c) above.~~

7. Anti-Deficiency Act. All payment obligations by the Federal Respondent are subject to the availability of appropriated funds applicable for that purpose. No provision of this Agreement shall be interpreted as or constitute a commitment or requirement that the United States obligate or pay funds in contravention of the Anti-Deficiency Act, 31 U.S.C. § 1341, or any other applicable provision of law.

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8. Participation by other entities. ~~The Parties agree that in the event any other potentially responsible party performs any of the Work, or financially contributes to the cost of the Work, the~~ The Federal Respondent's obligations under this Agreement only require Federal Respondent to pay 22.5 percent of Blue Tee's Future Future Response Costs Expenses relating to Smelter-Related Response Costs Expenses and 45 percent of Blue Tee's Future Response Costs Expenses relating to Non-Smelter-Related Response Costs Expenses, not those percentages of all Smelter-Related Response Costs Expenses or Non-Smelter-Related Response Costs Expenses.

9. Technical Assistance Plan. Federal Respondent will pay the first \$50,000.00 of any cost pursuant to any Community Involvement Support and Technical Assistance Plan ("Plan") required by EPA pursuant to the RI/FS AOC ~~or RI/FS UAO~~. This payment is in addition to the amounts set forth in Paragraphs 2 and 4 above. The Parties shall divide any further payments required of them pursuant to the Plan, each Party paying fifty percent of such additional payments as between them.

10. Contribution Protection. The Parties agree that the Federal Respondent is ~~and Blue Tee are~~ entitled to protection from contribution claims under 42 U.S.C. § 9613(f)(1), the common law, and any other applicable law, regarding the matters addressed in this Agreement. The matters addressed in this Agreement are Blue Tee's Past Response Costs and Blue Tee's Future Response Costs. [NOTE: BLUE TEE GETS ITS CONTRIBUTION PROTECTION THROUGH THE AOC WITH EPA, NOT THIS AGREEMENT. WE SHOULD GET CONTRIBUTION PROTECTION BECAUSE THIS DOCUMENT SHOWS THAT WE ARE PAYING OUR FAIR SHARE.]

11. No Admission of Fact or Law. Nothing in this Agreement shall be construed as an admission of any issue of fact or law by either Party.

12. Representations and Warranties. The Parties represent and warrant the following:

- a. Each Party has received independent legal advice from its attorneys with respect to

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the advisability of entering into the settlement memorialized in this Agreement and with respect to the advisability of executing this Agreement.

b. Neither of the Parties has relied upon any statement, representation, omission, inducement, or promise of the other party (or any officer, agency, employee, representative, or attorney for the other Party) in entering into this settlement and executing this Agreement.

c. Each Party to this Agreement has investigated the facts pertaining to this settlement and this Agreement, and all matters pertaining thereto, to the full extent that each Party deems necessary.

d. Each Party has carefully read and reviewed with its attorneys, and knows and understands, the full contents of this Agreement and is voluntarily entering into this Agreement.

e. Each term of this Agreement within the section of this Agreement entitled "AGREEMENT" is contractual and not merely a recital.

f. Each signatory to this Agreement has been authorized to execute this Agreement by the Party each such signatory represents.

g. Each Party has participated in, and in any construction to be made of this Agreement, shall be deemed to have equally participated in, the negotiation and drafting of this Agreement and each of its parts.

13. Binding Effect of Agreement. This Agreement is binding upon the Parties and their respective successors and assigns, officers, directors, employees and agents. However, this Agreement shall not be interpreted to bar or affect the authority of the United States Environmental Protection Agency or any other department, agency or instrumentality of the United States charged with enforcement of environmental laws and regulations from acting within its authority as to Blue Tee, the Federal Respondent, or the Site.

14. For all matters regarding which this Agreement requires the Federal Respondent or Blue Tee

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to give notice to the other, such notice shall be given as follows:

Notice to the Federal Respondent shall be submitted to the following:

Bernard K. Schafer  
Senior Assistant General Counsel  
Office of General Counsel  
U.S. General Services Administration  
1800 F Street, NW  
Washington, D.C. 20405

Daniel W. Pinkston  
Senior Trial Attorney  
Environmental Defense Section  
U.S. Dept. of Justice  
999-18th Street, Suite 945 North  
Denver, CO 80202

Notice to Blue Tee shall be submitted to the following:

Terance Gileo Faye, Esq.  
c/o Babst Calland Clements and Zomnir, P.C.  
1 North Maple Avenue  
Greensburg, PA 15601

A party may change the person to whom notice may be given by written notification to the other  
Party.

[Signature Blocks]